

REFERENCE TITLE: large electronics recycling program

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2520

Introduced by
Representatives Ableser: Gallardo

AN ACT

AMENDING TITLE 49, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11;
RELATING TO THE ELECTRONICS RECYCLING PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 49, chapter 4, Arizona Revised Statutes, is amended
3 by adding article 11, to read:

4 ARTICLE 11. LARGE ELECTRONICS RECYCLING PROGRAM

5 49-891. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COLLECTOR" MEANS AN ENTITY THAT COLLECTS COVERED ELECTRONIC
8 DEVICES AS PART OF A MANUFACTURER PROGRAM OR THE STATE CONTRACTOR PROGRAM.

9 2. "COVERED ELECTRONIC DEVICE":

10 (a) MEANS:

11 (i) A COMPUTER MONITOR OF ANY TYPE HAVING A VIEWABLE AREA GREATER THAN
12 FOUR INCHES MEASURED DIAGONALLY.

13 (ii) A DESKTOP COMPUTER OR PORTABLE COMPUTER.

14 (iii) A TELEVISION OF ANY TYPE HAVING A VIEWABLE AREA GREATER THAN
15 FOUR INCHES MEASURED DIAGONALLY.

16 (b) DOES NOT INCLUDE:

17 (i) ANY PART OF A MOTOR VEHICLE.

18 (ii) ANY PART OF A LARGER PIECE OF EQUIPMENT DESIGNED AND INTENDED FOR
19 USE IN AN INDUSTRIAL, COMMERCIAL OR MEDICAL SETTING, SUCH AS DIAGNOSTIC,
20 MONITORING OR CONTROL EQUIPMENT.

21 (iii) TELEPHONES OR PERSONAL DIGITAL ASSISTANTS OF ANY TYPE UNLESS THE
22 TELEPHONE OR PERSONAL DIGITAL ASSISTANT CONTAINS A VIEWABLE AREA GREATER THAN
23 FOUR INCHES MEASURED DIAGONALLY.

24 (iv) ANY PART OF A CLOTHES WASHER, CLOTHES DRYER, REFRIGERATOR,
25 FREEZER, MICROWAVE OVEN, CONVENTIONAL OVEN OR RANGE, DISHWASHER, ROOM AIR
26 CONDITIONER, DEHUMIDIFIER OR AIR PURIFIER.

27 3. "COVERED ENTITY" MEANS ANY HOUSEHOLD, A BUSINESS THAT EMPLOYS TEN
28 OR FEWER INDIVIDUALS, A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER
29 SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE THAT EMPLOYS TEN OR FEWER
30 INDIVIDUALS OR ANY PERSON GIVING SEVEN OR FEWER COVERED ELECTRONIC DEVICES TO
31 A COLLECTOR AT ANY ONE TIME.

32 4. "MANUFACTURER" MEANS ANY PERSON THAT MANUFACTURES COVERED
33 ELECTRONIC DEVICES UNDER A BRAND THAT IT OWNS OR IS LICENSED TO USE, THAT
34 SELLS COVERED ELECTRONIC DEVICES MANUFACTURED BY OTHERS UNDER A BRAND THAT
35 THE SELLER OWNS, THAT MANUFACTURES COVERED ELECTRONIC DEVICES WITHOUT
36 AFFIXING A BRAND, THAT MANUFACTURES COVERED ELECTRONIC DEVICES TO WHICH IT
37 AFFIXES A BRAND THAT IT DOES NOT OWN OR ON WHOSE ACCOUNT COVERED ELECTRONIC
38 DEVICES MANUFACTURED OUTSIDE THE UNITED STATES ARE IMPORTED INTO THE UNITED
39 STATES. MANUFACTURER DOES NOT INCLUDE A PERSON WITH A LICENSE TO MANUFACTURE
40 COVERED ELECTRONIC DEVICES FOR DELIVERY EXCLUSIVELY TO OR AT THE ORDER OF THE
41 LICENSER.

42 5. "MANUFACTURER PROGRAM" MEANS A STATEWIDE PLAN FOR COLLECTING,
43 TRANSPORTING AND RECYCLING COVERED ELECTRONIC DEVICES THAT IS PROVIDED BY A
44 SINGLE MANUFACTURER OR GROUP OF MANUFACTURERS PURSUANT TO SECTION 49-891.02.

1 STATE SHALL REGISTER WITH THE DEPARTMENT, FOR A PERIOD TO COVER THE UPCOMING
2 CALENDAR YEAR, ON A FORM PROVIDED BY THE DEPARTMENT. THE REGISTRATION SHALL
3 INCLUDE INFORMATION REQUIRED BY THE DEPARTMENT BY RULE.

4 C. BEGINNING IN 2009, NOT LATER THAN JULY 1 OF EACH YEAR, A
5 MANUFACTURER OF COVERED ELECTRONIC DEVICES SOLD OR OFFERED FOR SALE IN THIS
6 STATE SHALL PAY AN ANNUAL REGISTRATION FEE TO THE DEPARTMENT DETERMINED BY
7 THE DEPARTMENT BY RULE.

8 D. ON OR BEFORE SEPTEMBER 1 EACH YEAR, A MANUFACTURER THAT
9 PARTICIPATES IN THE STATE CONTRACT OR PROGRAM SHALL PAY A FEE TO THE
10 DEPARTMENT DETERMINED BY THE DIRECTOR BY RULE, AFTER CONSIDERING THE
11 MANUFACTURER'S ANNUAL RETURN SHARE.

12 E. IF A MANUFACTURER CEASES TO MANUFACTURE, SELL OR IMPORT COVERED
13 ELECTRONIC DEVICES AND COVERED ELECTRONIC DEVICES MANUFACTURED, SOLD OR
14 IMPORTED BY THE MANUFACTURER ARE COLLECTED FOR RECYCLING UNDER A MANUFACTURER
15 PROGRAM OR THE STATE CONTRACTOR PROGRAM, THE MANUFACTURER SHALL REGISTER WITH
16 THE DEPARTMENT AND PAY A REGISTRATION FEE DETERMINED BY THE DEPARTMENT BY
17 RULE.

18 49-891.02. Manufacturer's program; return share

19 A. A MANUFACTURER CHOOSING TO IMPLEMENT A MANUFACTURER PROGRAM SHALL
20 SUBMIT A PLAN TO THE DEPARTMENT AT THE TIME OF PAYMENT OF THE ANNUAL
21 REGISTRATION FEE REQUIRED UNDER SECTION 49-891.01. THE MANUFACTURER'S PLAN
22 MUST DESCRIBE HOW THE MANUFACTURER WILL:

23 1. FINANCE, MANAGE AND CONDUCT A STATEWIDE PROGRAM TO COLLECT COVERED
24 ELECTRONIC DEVICES FROM COVERED ENTITIES IN THIS STATE.

25 2. PROVIDE FOR ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES TO COLLECT,
26 TRANSPORT AND RECYCLE COVERED ELECTRONIC DEVICES.

27 3. PROVIDE FOR ADVERTISING AND PROMOTION OF COLLECTION OPPORTUNITIES
28 STATEWIDE AND ON A REGULAR BASIS.

29 4. INCLUDE CONVENIENT SERVICE IN EVERY COUNTY IN THIS STATE AND AT
30 LEAST ONE COLLECTION SITE FOR ANY CITY WITH A POPULATION OF AT LEAST TEN
31 THOUSAND PERSONS. A COLLECTION SITE FOR A COUNTY MAY BE THE SAME AS A
32 COLLECTION SITE FOR A CITY IN THE COUNTY. COLLECTION SITES SHALL BE STAFFED
33 AND OPEN TO THE PUBLIC AT A FREQUENCY ADEQUATE TO MEET THE NEEDS OF THE AREA
34 BEING SERVED. A PROGRAM MAY PROVIDE COLLECTION SERVICE JOINTLY WITH ANOTHER
35 PROGRAM.

36 B. A MANUFACTURER CHOOSING TO IMPLEMENT A MANUFACTURER PROGRAM SHALL:

37 1. MEET OR EXCEED THE REQUIREMENTS FOR COLLECTION SITES DESCRIBED IN
38 SUBSECTION A OF THIS SECTION.

39 2. PROVIDE FOR COLLECTION, TRANSPORTATION AND RECYCLING OF COVERED
40 ELECTRONIC DEVICES FOR COVERED ENTITIES FREE OF CHARGE, EXCEPT THAT A
41 MANUFACTURER THAT PROVIDES PREMIUM SERVICE FOR A COVERED ENTITY MAY CHARGE
42 FOR THE ADDITIONAL COST OF THAT PREMIUM SERVICE.

43 3. IMPLEMENT THE PLAN REQUIRED UNDER THIS SECTION.

44 C. A GROUP OF MANUFACTURERS MAY CHOOSE TO IMPLEMENT A MANUFACTURER
45 PROGRAM AS ONE ENTITY, IF IN DOING SO THE MANUFACTURERS MEET THE SUM OF THEIR

1 INDIVIDUAL RETURN SHARES BY WEIGHT UNDER SECTION 49-891.04 AND THAT SUM IS AT
2 LEAST FIVE PER CENT.

3 D. ON OR BEFORE JULY 1 OF EACH YEAR, A MANUFACTURER THAT DOES NOT MEET
4 ITS RETURN SHARE BY WEIGHT FOR THE PREVIOUS CALENDAR YEAR SHALL PAY THE
5 DEPARTMENT FOR THE AMOUNT NOT ACHIEVED AT A RATE DETERMINED BY THE DEPARTMENT
6 TO BE EQUIVALENT TO THE AMOUNT THE MANUFACTURER WOULD HAVE PAID, PLUS TEN PER
7 CENT, TO BE PART OF THE STATE CONTRACTOR PROGRAM UNDER SECTION 49-891.04.

8 E. A MANUFACTURER PARTICIPATING IN THE STATE CONTRACTOR PROGRAM UNDER
9 SECTION 49-891.04 SHALL NOTIFY THE DEPARTMENT AT THE TIME OF ITS REGISTRATION
10 EACH YEAR.

11 F. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, A MANUFACTURER
12 WITH LESS THAN A FIVE PER CENT RETURN SHARE IS REQUIRED TO PARTICIPATE IN THE
13 STATE CONTRACTOR PROGRAM UNDER SECTION 49-891.04.

14 G. BEGINNING IN 2011, CONDUCT A STATISTICALLY SIGNIFICANT SAMPLING OR
15 ACTUAL COUNT OF THE COVERED ELECTRONIC DEVICES COLLECTED AND RECYCLED BY THE
16 MANUFACTURER EACH CALENDAR YEAR USING A METHODOLOGY APPROVED BY THE
17 DEPARTMENT. THE MANUFACTURER SHALL REPORT THE RESULTS OF THE SAMPLING OR
18 COUNT TO THE DEPARTMENT NO LATER THAN MARCH 1 OF THE FOLLOWING CALENDAR YEAR.
19 THE REPORT MUST INCLUDE:

20 1. A LIST OF ALL BRANDS IDENTIFIED DURING THE SAMPLING OR COUNT BY THE
21 MANUFACTURER.

22 2. THE WEIGHT OF COVERED ELECTRONIC DEVICES IDENTIFIED FOR EACH BRAND
23 DURING THE SAMPLING OR COUNT.

24 3. THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES, INCLUDING ORPHAN
25 DEVICES, COLLECTED FROM COVERED ENTITIES IN THE STATE BY THE MANUFACTURER
26 DURING THE PREVIOUS CALENDAR YEAR.

27 H. ON OR BEFORE MARCH 1 OF EACH YEAR, A MANUFACTURER SHALL PROVIDE A
28 REPORT TO THE DEPARTMENT THAT DETAILS HOW THE PLAN REQUIRED UNDER THIS
29 SECTION WAS IMPLEMENTED DURING THE PREVIOUS CALENDAR YEAR.

30 49-891.03. Prohibition on consumer fees; exception

31 A. EXCEPT AS AUTHORIZED IN SUBSECTION B, A MANUFACTURER PROGRAM, THE
32 STATE CONTRACTOR PROGRAM OR A COLLECTOR PARTICIPATING IN A MANUFACTURER
33 PROGRAM OR THE STATE CONTRACTOR PROGRAM MAY NOT CHARGE A FEE TO COVERED
34 ENTITIES FOR THE COLLECTION, TRANSPORTATION OR RECYCLING OF COVERED
35 ELECTRONIC DEVICES.

36 B. A COLLECTOR THAT PROVIDES A PREMIUM SERVICE TO A COVERED ENTITY MAY
37 CHARGE FOR THE ADDITIONAL COST OF PROVIDING THE PREMIUM SERVICE.

38 49-891.04. Duties of department; rules

39 THE DEPARTMENT SHALL:

40 1. MAINTAIN AND MAKE AVAILABLE ON ITS WEBSITE THE FOLLOWING LISTS,
41 WHICH MUST BE UPDATED ON OR BEFORE THE FIRST DAY OF EACH MONTH:

42 (a) A LIST OF REGISTERED MANUFACTURERS AND THEIR BRANDS.

43 (b) A LIST OF BRANDS FOR WHICH NO MANUFACTURER HAS REGISTERED.

44 (c) A LIST THAT IDENTIFIES WHICH MANUFACTURERS ARE IN COMPLIANCE WITH
45 THIS ARTICLE.

1 2. REVIEW AND APPROVE MANUFACTURER PLANS THAT COMPLY WITH SECTION
2 49-891.02 AND THAT ARE SUBMITTED ANNUALLY BY MANUFACTURERS CHOOSING TO
3 IMPLEMENT A MANUFACTURER PROGRAM FOR RECYCLING COVERED ELECTRONIC DEVICES.

4 3. DETERMINE THE RETURN SHARE AND RETURN SHARE BY WEIGHT FOR EACH
5 CALENDAR YEAR FOR EACH MANUFACTURER. THE RETURN SHARE SHALL BE DETERMINED BY
6 DIVIDING THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES OF THAT
7 MANUFACTURER'S BRANDS BY THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES FOR
8 ALL MANUFACTURERS' BRANDS. THE RETURN SHARE BY WEIGHT SHALL BE DETERMINED BY
9 MULTIPLYING THE RETURN SHARE FOR EACH SUCH MANUFACTURER BY THE TOTAL WEIGHT
10 IN POUNDS OF COVERED ELECTRONIC DEVICES, INCLUDING ORPHAN DEVICES, COLLECTED
11 FROM COVERED ENTITIES THE PREVIOUS CALENDAR YEAR. FOR 2009 AND 2010, THE
12 DEPARTMENT SHALL DETERMINE THE RETURN SHARE AND RETURN SHARE BY WEIGHT FOR
13 EACH MANUFACTURER BASED ON THE BEST AVAILABLE PUBLIC RETURN SHARE DATA AND
14 PUBLIC WEIGHT DATA FROM WITHIN THE UNITED STATES FOR COVERED ELECTRONIC
15 DEVICES FROM COVERED ENTITIES. FOR SUBSEQUENT YEARS, THE RETURN SHARE OF
16 COVERED ELECTRONIC DEVICES FOR EACH MANUFACTURER SHALL BE BASED ON THE MOST
17 RECENT ANNUAL SAMPLING OR COUNT OF COVERED ELECTRONIC DEVICES. FOR
18 SUBSEQUENT YEARS, THE TOTAL WEIGHT IN POUNDS OF COVERED ELECTRONIC DEVICES
19 SHALL BE BASED ON THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES, INCLUDING
20 ORPHAN DEVICES, DETERMINED BY THE DEPARTMENT. ON OR BEFORE MAY 1 OF EACH
21 YEAR, THE DEPARTMENT SHALL PROVIDE TO EACH MANUFACTURER THAT HAD A RETURN
22 SHARE DETERMINED UNDER THIS SECTION ITS RETURN SHARE AND ITS RETURN SHARE BY
23 WEIGHT FOR THE FOLLOWING YEAR.

24 4. ESTABLISH A STATE CONTRACTOR PROGRAM FOR THE COLLECTION,
25 TRANSPORTATION AND RECYCLING OF COVERED ELECTRONIC DEVICES FROM COVERED
26 ENTITIES IN THIS STATE. THE STATE CONTRACTOR PROGRAM SHALL:

27 (a) TO THE EXTENT PRACTICABLE, USE EXISTING LOCAL COLLECTION,
28 TRANSPORTATION AND RECYCLING INFRASTRUCTURE.

29 (b) USE ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES TO COLLECT,
30 TRANSPORT AND RECYCLE COVERED ELECTRONIC DEVICES.

31 (c) PROVIDE FOR COVERED ENTITIES, FREE OF CHARGE, CONVENIENT AND
32 AVAILABLE COLLECTION SERVICES AND SITES FOR COVERED ELECTRONIC DEVICES IN
33 BOTH RURAL AND URBAN AREAS.

34 (d) ADVERTISE AND PROMOTE COLLECTION OPPORTUNITIES STATEWIDE AND ON A
35 REGULAR BASIS.

36 (e) CONDUCT A STATISTICALLY SIGNIFICANT SAMPLING OR ACTUAL COUNT OF
37 THE COVERED ELECTRONIC DEVICES COLLECTED AND RECYCLED BY THE STATE CONTRACTOR
38 PROGRAM DURING EACH CALENDAR YEAR USING A METHODOLOGY APPROVED BY THE
39 DEPARTMENT AND PREPARE A REPORT NO LATER THAN MARCH 1 OF THE FOLLOWING
40 CALENDAR YEAR THAT INCLUDES:

41 (i) A LIST OF ALL BRANDS IDENTIFIED DURING THE SAMPLING OR COUNT.

42 (ii) THE WEIGHT OF COVERED ELECTRONIC DEVICES IDENTIFIED FOR EACH
43 BRAND DURING THE SAMPLING OR COUNT.

1 (iii) THE TOTAL WEIGHT OF COVERED ELECTRONIC DEVICES, INCLUDING ORPHAN
2 DEVICES, COLLECTED FROM COVERED ENTITIES IN THE STATE BY THE STATE CONTRACTOR
3 PROGRAM DURING THE PREVIOUS CALENDAR YEAR.

4 5. DETERMINE A MANUFACTURER'S ANNUAL REGISTRATION FEE FOR PURPOSES OF
5 SECTION 49-891.01 USING NATIONAL MARKET DATA PRORATED FOR THIS STATE BASED ON
6 STATEWIDE POPULATION.

7 6. DETERMINE THE RECYCLING FEE TO BE PAID UNDER SECTION 49-891.01 BY
8 EACH MANUFACTURER THAT PARTICIPATES IN THE STATE CONTRACTOR PROGRAM
9 ESTABLISHED PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL DETERMINE THE
10 RECYCLING FEES AS FOLLOWS:

11 (a) FOR EACH MANUFACTURER EXCEPT THOSE DESCRIBED IN SUBDIVISION (b) OF
12 THIS PARAGRAPH, THE DEPARTMENT SHALL DETERMINE THE RECYCLING FEE BASED ON THE
13 MANUFACTURER'S ANNUAL RETURN SHARE AND RETURN SHARE BY WEIGHT AS DETERMINED
14 BY THIS SECTION.

15 (b) FOR EACH MANUFACTURER WHOSE MANUFACTURE OF COVERED ELECTRONIC
16 DEVICES THAT ARE TELEVISIONS EXCEEDS ITS MANUFACTURE OF COVERED ELECTRONIC
17 DEVICES THAT ARE COMPUTER MONITORS, DESK TOP COMPUTERS OR PORTABLE COMPUTERS
18 BY THE DEPARTMENT SHALL DETERMINE THE RECYCLING FEE BASED ON THE TOTAL RETURN
19 SHARE AND RETURN SHARE BY WEIGHT DETERMINED UNDER THIS SECTION OF ALL
20 MANUFACTURERS DESCRIBED IN THIS SUBDIVISION, ALLOCATED ACCORDING TO EACH
21 MANUFACTURER'S PERCENTAGE OF THE TOTAL NUMBER OF COVERED ELECTRONIC DEVICES
22 THAT ARE TELEVISIONS AND THAT ARE SOLD IN THIS STATE THE PREVIOUS CALENDAR
23 YEAR. THE DEPARTMENT MAY USE NATIONAL SALES DATA TO DETERMINE THE
24 PERCENTAGES. THE DEPARTMENT MAY ASSESS A SURCHARGE ON THE ANNUAL
25 REGISTRATION FEE FOR MANUFACTURERS DESCRIBED IN THIS SUBDIVISION TO PAY ANY
26 ADDED COSTS TO THE DEPARTMENT IN MAKING THE DETERMINATIONS.

27 7. MAINTAIN ON ITS WEBSITE INFORMATION ON COLLECTION OPPORTUNITIES FOR
28 COVERED ELECTRONIC DEVICES, INCLUDING COLLECTION SITE LOCATIONS AND HOURS.
29 THE INFORMATION MUST BE MADE AVAILABLE IN A PRINTABLE FORMAT FOR RETAILERS.

30 8. REPORT BIENNIALLY TO THE LEGISLATURE ON THE OPERATION OF THE
31 STATEWIDE SYSTEM FOR COLLECTION, TRANSPORTATION AND RECYCLING OF COVERED
32 ELECTRONIC DEVICES.

33 9. ADOPT RULES AS NECESSARY TO IMPLEMENT THIS ARTICLE.

34 49-891.05. Covered electronic devices fund

35 A. THE COVERED ELECTRONIC DEVICES FUND IS ESTABLISHED CONSISTING OF
36 FEES COLLECTED BY THE DEPARTMENT UNDER THIS ARTICLE. THE DEPARTMENT SHALL
37 ADMINISTER THE FUND.

38 B. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND
39 DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION 35-313, AND MONIES EARNED
40 FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

41 C. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT
42 AND MAY BE USED ONLY TO PAY THE COSTS OF IMPLEMENTING AND ENFORCING THIS
43 ARTICLE.

1 49-891.06. Disposal prohibition; civil penalty
2 A. BEGINNING JANUARY 1, 2011, A PERSON SHALL NOT DISPOSE AND A SOLID
3 WASTE FACILITY SHALL NOT KNOWINGLY RECEIVE FOR DISPOSAL A COVERED ELECTRONIC
4 DEVICE.
5 B. THE DEPARTMENT MAY DEFER THE PROHIBITION PRESCRIBED IN SUBSECTION A
6 IN ANY AREA IN WHICH THE DIRECTOR DETERMINES THERE IS AN INADEQUATE SYSTEM
7 FOR THE COLLECTION, TRANSPORTATION AND RECYCLING OF COVERED ELECTRONIC
8 DEVICES.
9 C. A PERSON, INCLUDING A MANUFACTURER, RETAILER OR CONSUMER OR AN
10 OWNER OR OPERATOR OF A SOLID WASTE FACILITY, WHO VIOLATES THIS ARTICLE IS
11 SUBJECT TO A CIVIL PENALTY OF NOT TO EXCEED TEN THOUSAND DOLLARS PER DAY FOR
12 EACH DAY OF VIOLATION.
13 49-891.07. Program termination
14 THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2018 PURSUANT
15 TO SECTION 41-3102.
16 Sec. 2. Requirements for enactment; two-thirds vote
17 Pursuant to article IX, section 22, Constitution of Arizona, this act
18 is effective only on the affirmative vote of at least two-thirds of the
19 members of each house of the legislature and is effective immediately on the
20 signature of the governor or, if the governor vetoes this act, on the
21 subsequent affirmative vote of at least three-fourths of the members of each
22 house of the legislature.